

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 614, As Amended in the Senate

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO ADMINISTRATIVE RULES; AMENDING SECTION 67-5223, IDAHO CODE, TO PROVIDE FOR STATEMENTS OF ECONOMIC IMPACT TO BE FILED WITH RULES; AND AMENDING SECTION 67-5229, IDAHO CODE, TO REVISE PROCEDURES FOR INCORPORATION BY REFERENCE IN RULEMAKING AND TO MAKE A TECHNICAL CORRECTION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 67-5223, Idaho Code, be, and the same is hereby amended to read as follows:

67-5223. INTERIM LEGISLATIVE REVIEW -- STATEMENT OF ECONOMIC IMPACT. (1) After notice of proposed rulemaking is filed with the coordinator, the coordinator, after making technical corrections as authorized in section 67-5202, Idaho Code, shall provide the notice, accompanied by the full text of the rule under consideration in legislative format, as well as a statement of the substance of the intended action, to the director of legislative services. If the proposed rulemaking is based upon a requirement of federal law or regulation, a copy of that specific federal law or regulation shall accompany the submission to the director of legislative services. The director of legislative services shall analyze and refer the material under consideration to the germane joint subcommittee created in section 67-454, Idaho Code.

(2) An agency shall prepare and deliver to the germane joint subcommittee a statement of economic impact with respect to a proposed rule if the germane joint subcommittee files a written request with the agency for such a statement. The statement shall contain an evaluation of the costs and benefits of the rule, including any health, safety, or welfare costs and benefits.

(3) An agency shall prepare for inclusion with the filing of the proposed rule change a statement of economic impact on all proposed rules in which a fee or charge is imposed or increased. The cost/benefit analysis shall include reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs borne by citizens, or the private sector or both. The adequacy of the contents of the statement of economic impact in subsections (1) and (2) of this section is not subject to judicial review and the accuracy of a fiscal impact statement provided pursuant to this subsection shall not affect the validity or the enforceability of the rule.

SECTION 2. That Section 67-5229, Idaho Code, be, and the same is hereby amended to read as follows:

67-5229. INCORPORATION BY REFERENCE. (1) If the incorporation of its text in the agency rules would be unduly cumbersome, expensive, or otherwise

inexpedient, an agency may incorporate by reference in its rules and without republication of the incorporated material in full, all or any part of:

- (a) A code, standard or rule adopted by an agency of the United States;
- (b) A code, standard or rule adopted by any nationally recognized organization or association;
- (c) A code or standard adopted by Idaho statute or authorized by Idaho statute for adoption by rule; or
- (d) A final rule of a state agency; provided however, that a state agency shall not adopt a temporary rule incorporating by reference a rule of that agency that is being or has been repealed unless the rule providing for the incorporation has been reviewed and approved by the legislature.

(2) The agency shall, as part of the rulemaking:

(a) Include in the notice of proposed rulemaking a brief written synopsis of why the incorporation is needed; and

(b) Note where ~~copies of the incorporated material may be obtained or electronically accessed~~ an electronic copy can be obtained or provide an electronic link to the incorporated materials that at a minimum will be posted on the agency's website or included in the rule that is published in the administrative code on the website of the office of the administrative rules coordinator; and

(c) If otherwise unavailable, ~~provide one (1) copy of the incorporated material to the Idaho supreme court law library~~ note where copyrighted or other proprietary materials can be viewed or purchased.

(3) The incorporated material shall be identified with specificity and shall include the date when the code, standard or rule was published, approved or became effective. If the agency subsequently wishes to adopt amendments to previously incorporated material, it shall comply with the rulemaking procedures of this chapter.

(4) Unless prohibited by other provisions of law, the incorporated material is subject to legislative review in accordance with the provisions of section 67-5291, Idaho Code, and shall have the same force and effect as a rule.